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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,226	03/12/2004	Robert H. Neely JR.	D5292	8557

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EXAMINER

WALTERS, JOHN DANIEL

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/800,226	NEELY ET AL.	
	Examiner	Art Unit	
	John D. Walters	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/25/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claims 1 – 9 have been examined.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4)

because:

- reference characters "24" and "26" have both been used to designate "fuel tank". Examples of this occur in paragraphs 15, 16 and 18 within the specification.
- reference characters "24" and "26" have both been used to designate "filler neck". Examples of this occur in paragraphs 15 and 16 within the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- Fig. 1, item 16.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

- Section headings should appear in upper case without underlining or bold type.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura (4,676,517) in view of Palvölgyi (6,286,559). Tamura discloses a fuel tank vent pipe arrangement comprising:

- a fuel tank (Fig. 1, item 2) supported by frame rails (Fig. 1, item 3) under the body floor (Fig. 1, items 1 and 1a);
- a filler neck (Fig. 2, item 5) having an inlet along a side of the vehicle (Fig. 2, item 5a), an outlet to the fuel tank (Fig. 2), and an intermediate section connecting the inlet to the outlet (Fig. 2);
- where the portions of the filler neck adjacent to the inlet and the outlet are circular (Figs. 1 and 2).

Tamura shows a filler neck that has a constant inner and outer diameter and a circular shape. Palvölgyi, however, discloses a filling pipe for the fuel tank of a motor vehicle comprising:

- a central portion (Fig. 2, item 17) through which at least one bead (Fig. 2, item 20) runs in a longitudinal direction.

In regards to claims 3 and 9, while Palvölgyi expressly shows figures where the central portion contains three beads forming a triangular shape, the disclosure and claims state "at least one" bead is used. In a configuration where two beads are placed on opposite sides of the tube wall an oblong geometry would be formed.

In regards to claim 5, while Tamura discloses a filler neck located under the frame rail it is an equivalent structure to a filler neck located over the frame rail. This is a design choice based on the frame geometry and the location of vehicle components.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the tank structure of Tamura with the central portion of Palvölgyi in order to provide the improved fluid flow characteristics created by the geometry change.

Claims 4, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura (4,676,517) in view of Palvölgyi (6,286,559) as applied to claims 1-3, 5, and 8-9 above, and further in view of Choma et al. (5,253,773). Tamura in view of Palvölgyi show filler necks that have essentially the same inner and outer diameters at the inlet and the outlet. Choma et al., however, disclose a filler tube for liquid containers comprising:

- an "inlet tube...includes a plurality of sections having varying diameters" (column 2, lines 9-12);
- a greater cross sectional area at the outlet of the tube section than at the inlet (Fig. 1, items 16, 18, and 20).

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In regards to claims 6 and 7, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to make use of the physical structure of the filler tube of Choma et al. in all sections of a filler neck assembly (inlet area, central portion, outlet area) in order to provide the improved flow characteristics created by transitioning from smaller to larger diameter along the entire length of the assembly.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the fuel tank system of Tamura in view of Palvölgyi with the filler tube of Choma et al. to further improve the fluid flow characteristics of the assembly.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harde et al. (5,538,039) show a structure similar to that of Choma et al. as used within a filler neck assembly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John D. Walters
Examiner
Art Unit 3618

JDW
CW



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